

MEMORANDUM

DATE: April 11, 2008

TO: Ms. Sharon L. Summers, DSS
Policy and Program Development Unit

FROM: Daniese McMullin-Powell, Chairperson
State Council for Persons with Disabilities

RE: 11 DE Reg. 1243 [Final Food Stamp Child Support Cooperation Regulations]

The State Council for Persons with Disabilities (SCPD) has reviewed the Department of Health and Social Services/Division of Social Services' (DSS) final Food Stamp Program regulations regarding child support provisions published as 11 DE Reg. 1243 in the March 1, 2008 issue of the Register of Regulations. SCPD commented on the proposed version of these regulations in January 2008 and appreciates that the Division adopted final regulations incorporating some amendments prompted by the Council's commentary.

First, SCPD shared some "pros and cons" to requiring parental cooperation with the DCSE as a condition of receipt of Food Stamps. In its response, DSS acknowledges the pros and cons but suggests that the requirement of cooperation should result in child support orders favoring custodial parents.

Second, SCPD observed that the "good cause" exemption for cooperation based on domestic violence was too narrow. The Division agreed and expanded the definition of "domestic violence" to conform to both federal regulations and other DSS standards.

Third, the SCPD noted that the regulations omitted a federal restriction on DCSE collection of fees and costs. In its response, DSS recites that DCSE has agreed to waive the normal \$25 application fee and \$25 collection fee when collections reach \$500.

Fourth, SCPD observed that the federal regulations contemplate DSS serving as the final decision-maker of good cause for failure to cooperate. In contrast, the State regulations indicated that the DCSE was the decision-maker. In response, DSS adopted an amendment to clarify that it would review any DCSE decision prior to DSS sanctioning a beneficiary.

Fifth, SCPD observed that the regulations ostensibly limited an aggrieved beneficiary to a DCSE hearing to the exclusion of a DSS fair hearing. DSS responded that it would provide notice to beneficiaries prior to imposition of any sanction for non-cooperation offering an opportunity for a DSS hearing. The "weakness" in this approach is that the actual regulation implies that the sole hearing is through the DCSE.

In summary, SCPD thanks the Division for considering its comments, but suggests that DSS reconsider its decision to not amend the actual text of the regulations to clarify that the DCSE hearing is not exclusive. As adopted, there is a single heading for “Administrative Hearings” (p. 1253) which a reasonable person would interpret as limiting aggrieved persons to a DCSE hearing.

cc: Ms. Elaine Archangelo
Governor’s Advisory Council for Exceptional Citizens
Developmental Disabilities Council

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